



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**  
**Conference Meeting**

**15-0092**

**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Cynthia A. Everett, City Attorney

**DATE:** January 14, 2015

**TITLE:** Vacation Rentals

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**Background**

At the City Commission's January 6, 2015 Conference Meeting, Commissioner Dean J. Trantalis indicated that a number of residents have raised concerns regarding the short term rental of residential properties within the City and suggested that the City Attorney's office review the City of Miami Beach regulations as a possible means of addressing the practice within the City of Fort Lauderdale. The City Attorney's office previously advised that Florida Law Chapter 2011-119 (Exhibit 1), preempted any local law, ordinance or regulation, adopted after June 1, 2011, from restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification and that the subsequent amendment, Florida Law Chapter 2014-71 (Exhibit 2) still prohibited the City from prohibiting vacation rentals but allowed regulations that did not affect the duration or frequency of rental of vacation rentals. (See attached Exhibit 3 - Memorandum No. 14-0129, Exhibit 4 - Memorandum No. 14-0276, and Exhibit 5 - Memorandum No. 14-0276) This preemption prevents the City from adopting many of the measures adopted by the City of Miami Beach.

The City of Miami Beach regulates vacation rental use mainly through three sections of its land development regulations ("LDR"). Miami Beach Section 142-109, Commercial use of single-family homes prohibited, which prohibits the use of residential property for commercial uses as defined in the LDR (Exhibit 6); Miami Beach Section 142-905, Permitted accessory uses in single-family districts, which identifies the leasing of single family homes of a period not less than six months and one day (Exhibit 7), and Miami Beach Section 142-1111, Short Term Rental of Apartment Units or Townhomes, which regulates the short term rental of apartment units and townhomes (Exhibit 8). Each of these regulations was enacted prior to the enactment of Laws of Florida Chapter 2011-119 as amended by Florida Law Chapter 2014-71, Section 509.032(7)(b), Florida Statute (2014), preempting the local regulation and restriction of vacation rentals.

The City of Fort Lauderdale cannot adopt aspects of the City of Miami Beach regulatory scheme that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals, as such, Miami Beach Section 142-905, which regulates the duration of leases, cannot be adopted in Fort Lauderdale.

Similarly, aspects of Miami Beach Section 142-109 that prohibit vacation rental as a commercial use of residential property also cannot be enacted, however, other types of short term rentals that fall outside of the statutory definition of vacation rental may be regulated.

Section 142-1111 of the City of Miami Beach's LDR regulates the rental of apartment or townhome residential properties within the city and prohibits "[a]ny advertising or advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of [section 142-111]". This Section more specifically provides:

- a general prohibition against renting apartments and townhomes for less than six months and one day within its RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, RO-3 or TH zoning districts;
- allows the short term rental of apartments and townhome residential units within their RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts subject to the following:
  - owners must demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building;
  - apply for a certificate of use within six months of the effective date of Ordinance No. 2010-3685;
  - comply with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code within three months of the effective date of Ordinance No. 2010-3685;
  - Applications under this ordinance may be accepted until 60 days after adoption of this subsection (adopted on April 11, 2012; 60 days expire June 11, 2012), upon determination by the planning director that a government licensing error prevented timely filing of the application.
  - All short-term rentals under this section must be pursuant to a binding written agreement, license or lease.
  - All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal

residence located within the Flamingo Park or Espanola Way historic districts

- Owners are subject to resort taxes for rentals under this section, as required by city law.

The ordinance also authorizes the city manager to adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of the section.

The prohibition on advertising is not preempted by state law, however, there are constitutional law and enforcement issues that need to be considered when contemplating the adoption of such regulations. The City of Fort Lauderdale may also institute the provisions requiring that the properties be supervised. There are a few measures implemented by the City of Miami Beach using their quality of life regulations that have resulted in litigation, the results of which are still pending.

**Resource Impact:**

There is no fiscal impact associated with this action.

**Attachments:**

Exhibit 1 - Laws of Florida Chapter 2011-119  
Exhibit 2 – Laws of Florida Chapter 2014-71  
Exhibit 3 – City Attorney Memorandum No. 14-0129  
Exhibit 4 – City Attorney Memorandum No. 14-264  
Exhibit 5 – City Attorney Memorandum No. 14-276  
Exhibit 6 – Section 142-109, Miami Beach  
Exhibit 7 – Section 142-905, Miami Beach  
Exhibit 8 – Section 142-1111, Miami Beach

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